

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, AUGUST 12, 2005
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:15a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ted Yamamura
Mr. Toby Martyn
Ms. Taryn Schuman

Mr. Tim Johns
Mr. Gerald DeMello
Mr. Ron Agor

STAFF

Mr. Harry Yada, Land
Mr. Carl Watanabe, BOC
Mr. Dan Quinn, Parks
Mr. Les Yoshimasu, DOT
Mr. Michael Constantinides, DOFAW

Mr. Sam Lemmo, OCCL
Mr. Richard Rice, DOBOR
Mr. Mike Shinozuka, DOT
Mr. Paul Conry, DOFAW
Mr. Roger Imoto, DOFAW

OTHER

Mr. Colin Lau, Deputy Attorney General
Mr. Greg Mooers, K-2
Mr. Allen Yanos, G-1
Mr. Kent Pelt, G-1
Ms. Mary Matza, D-6
Mr. Michael Heihre, D-13
Mr. Gary Barnes, D-16
Mr. Bill Mossman, J-1
Mr. Scott Harlan, C-1
Ms. Lisa Barton, C-1

Mr. Sumner Howard, G-1
Ms. Denise Kaehu, G-1
Mr. Bruce Meyers, D-4
Mr. Phil Hauret, D-12
Mr. Mike Buck, D-13, C-1
Mr. Patrick Maloney, D-14
Mr. Don Bryan, C-1
Mr. Carl Masaki, C-1
Mr. Mike Robinson, C-1

Mr. Peter Simmons, C-1
Mr. Jim Quinn, C-1

Mr. Kent Unterman, C-1

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of July 22, 2005

Member Martyn and Member Schuman recused themselves.

Unanimously approved by the remaining Board members (Johns/Yamamura).

Item K-2: Conservation District Use Application (CDUA) HA-3229 for Subdivision of Land for Public Purpose.

Sam Lemmo, Administrator of the Office of Conservation and Coastal Lands announced that the subject property is located on the north coast of the island of Hawaii in north Kohala. The parcel is located in both the agricultural and conservation district. The conservation district runs along the coastline of the subject property. The applicants are proposing to subdivide the conservation district land into four lots with three lots partially located within the conservation district. To comply with Hawaii Administrative Rules §13-5-22 the applicant shall record with the deed a restrictive covenant prohibiting any type of land use within the conservation district. Mr. Lemmo recommended the Board approve this application to subdivide the subject parcel.

Greg Mooers the applicant was present.

Unanimously approved as submitted (DeMello/Johns).

Item G-1: Request for Authorization to proceed with implementing the recommendations outlined in the “Department of Land and Natural Resource, Bureau of Conveyances, Operation Review Project, Findings and Recommendation Report, June 2005”.

Carl Watanabe, Administrator of the Bureau of Conveyance (BOC) reminded the Board Section 61 of Act 200, Session Laws of Hawaii 2003 requested the Department look at streamlining the process at BOC to create more efficiency within the division. Hoike Consulting was contacted to address operational concerns at BOC based on an increase in recording activity. Hoike’s findings were detailed in a “Findings and Recommendation Report” which detailed idea’s of how to work together as a group, it identifies operational improvement areas, addresses recommended organizational structure, staff changes and performance level improvements. Mr. Watanabe recommended the Board authorize the Department to proceed with implementing the recommendations outlined in the “Department of Land and Natural Resources, Bureau of Conveyances, Operation Review Project, Findings and Recommendation Report, June 2005”.

Member Johns asked Mr. Watanabe to address the concept of combining the receiving section of the Regular System and Land Court System into one unit. Mr. Watanabe replied that he would need to redesign the section and also redescribe positions in an effort to make sure the recording section is not approached on the basis of one or the other. Mr. Watanabe went over the process undertaken by Hoike and also noted the Hawaii Government Employees Association (HGEA) did not participate in this process.

Sumner Howard, President of Government Efficiency Teams a non-profit organization that assists government in making changes testified in support of staff's recommendations. Mr. Howard let it be known he was a member of the process review group that met in March 2004. Mr. Howard noted his support for the changes suggested by Hoike and feels these changes are necessary.

Denise Kaehu, Kent Pelt and Allen Yanos members of the board of the Hawaii Land Title Association testified in favor of the changes proposed by Hoike. They communicated that BOC is unable to keep up with the increase in daily demands of recording. Over the years their association has made various concession to make staff's job easier. The Association feels staff at BOC would be able to handle the workload if it is done more efficiently.

Written testimony was received from various staff at BOC.

The Board asked staff to return in six (6) months to give an update on the implementation of the subject changes and any other additional changes taking place in BOC.

Unanimously approved as submitted (Johns/Yamamura).

Item D-4: Department of Transportation, Highways Division Requests 1) the Partial Withdrawal of Land from the Upper Waiakea Forest Reserve and the Hilo Forest Reserve, 2) the Set Aside of same for Highway Rights-of-Way Purposes, and 3) the Issuance of a Right-of-Entry for Planning and Construction Purposes, North and South Hilo, Hawaii, TMK: (3) 2-4-08:1, 4, 8 & 17 and (3) 2-6-18:4 & 10.

Harry Yada, Acting Administrator of the Land Division reminded the Board at its January 23, 2004 meeting a conservation district use application was issued for the Saddle Road Improvement Project. Previously Phase I, Section II of the project was approved on September 28, 2001. As a brief history, Mr. Yada pointed out Saddle Road was built in the early 1940's by the US Army as a quicker cross-island route connecting East and West Hawaii. The proposed project would provide a safer and more efficient route than what currently exists. At its December 2001 meeting, the Board approved various dispositions of State lands for Phase I of the project. Phase I is scheduled to be completed in fiscal year 2007. The current request for 54 acres of State land covers only a portion of Phase II, Section III of the project, which encompasses Mileposts 19 to 22.5. This portion of the road will be completely rebuilt mostly following the existing road's

route. The Department of Hawaiian Home Lands (DHHL) owns the balance of Phase II land and the Department of Transportation will enter into a license agreement with DHHL for use of those lands. Mr. Yada recommended the Board approve of and recommend to the Governor the issuance of an executive order withdrawing the lands required for the Phase II Saddle Road Improvements Project, Section III, rights-of-way from Governor's Proclamation 36 and 37, the issuance of an executive order setting aside the lands withdrawn under A to the Department of Transportation, Highways Division and approve the issuance of a right-of-entry to the Department of Transportation, its agents, consultants and/or contractors to enter upon the subject State land for planning and construction purposes.

Bruce Meyers of Okuhara and Associates was present.

Unanimously approved as submitted (DeMello/Johns).

Item D-6: Grant of Term, Non-Exclusive Easement to Hale Puako, LLC., for Seawall Purposes, Puako Beach Lots, Lalamilo, South Kohala, Hawaii, TMK: (3) 6-9-01:02.

Mr. Yada confirmed that in preparation to renovate improvements on their property, Joseph and Mary Matza, dba Hale Puako, LLC applied for a Special Management Area Assessment and Shoreline Setback Variance with the County of Hawaii. In October 2004 they were notified of suspect encroachments into the 40-foot shoreline setback and of seawall encroachments. Research into this issue revealed that a Shoreline Setback Variance Permit was issued. Upon consultation with OCCL staff it was determined that allowing the encroachments to remain would have no adverse impacts on natural resources therefore OCCL has no objections to a disposition being processed. As the subject area of encroachment is less than 100 square feet, staff is asking for a waiver of the fine. Furthermore staff is asking the Board to authorize the acceptance of a deposit (\$555.00), which will allow the processing of the shoreline certification, which is needed to pursue a building, permit application. Mr. Yada recommended the Board authorize the issuance of a term, non-exclusive easement to Hale Puako, LLC covering the subject area and the acceptance of a deposit in the amount of \$555.00 from the applicant as an estimated easement consideration.

Mary Matza the applicant was present.

Unanimously approved as submitted (DeMello/Johns).

Item D-12: Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Access and Utility Purposes, Waimanalo, Oahu, TMK: (1) 4-1-08, 10, 11 & 27.

Member Johns recused himself.

Mr. Yada pointed out an error was made when processing documents and various grant of easements to Hawaiian Electric Company were terminated although the easements were being utilized. Due to the above error, Mr. Yada recommended the Board authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. covering the subject area.

Phil Hauret, land agent with Hawaiian Electric Company, Inc (HECO) expressed his belief that HECO should not be charged market value for the easement. To support this claim, Mr. Hauret conveyed that in 1968 HECO paid \$17,200.00 for eight (8) easements. Included with these easements was a condition that if the area is not utilized within a year or abandoned the easement would be terminated. Of the eight (8) easements HECO possesses only four (4) have been utilized. On two separate occasions HECO asked that the abandonment condition be extended which it was. Again in 2001 HECO asked that the condition be extended but was told by staff it would not be extended and the four (4) easements not utilized would be cancelled. In 2004 the documents for the cancellation of the easements were prepared and executed. HECO later learned the documents prepared by the attorney general's office cancelled all eight (8) easements. Upon learning this information HECO asked staff to prepare a cancellation document to reflect the cancellation of only four (4) easements. Mr. Hauret disclosed the attorney general's office informed HECO since the entire grant had been cancelled the four utilized easement could only be reinstated by a new grant of easement. Mr. Hauret failed to understand why a correction document could not be prepared to correct the errors made. In any case if a new document needs to be prepared, Mr. Hauret believes HECO should not be required to pay a consideration amount as the error was not a result of their actions.

Mr. Yada announced that statute dictates that the Department must charge for an easement. As far as drafting a correction document to correct the error, Mr. Yada would need to check with the attorney general's office if that is a possible option.

Colin Lau, Deputy Attorney General advised the Board he believes a correction document would be the simplest way to resolve the error but he would need to review the document first.

The Board amended the submittal by deleting the consideration and changed the action to an authorization for a correction deed to the prior cancellation that was in error instead of a new easement, subject to review by the Department of the Attorney General.

Unanimously approved as amended by the remaining Board members (Martyn/Agor).

Item D-13: Mutual Cancellation of General Lease No. S-4101 Assigned to Southern Foods Group, LP for Dairy Purposes, Waimanalo, Oahu, TMK: (1) 4-1-08:80 and 4-1-26:04.

Mr. Yada communicated the subject property has undergone a clean up effort by Meadow Gold. A final Closure Report prepared by Kimura International, Inc. was submitted to the Department of Health in 2002. As a result of the finalization of clean up activities, Meadow Gold is requesting to surrender the lease as the use of the property is limited to dairy purposes. Other State agencies have expressed an interest in this property therefore Mr. Yada recommended the Board authorize the mutual cancellation of General Lease No. S-4101 assigned to Southern Foods covering the subject area.

Michael Buck, a member of the Waimanalo Neighborhood Board noted that this piece of land is very important to the community and asked that they be kept informed on the possible use of the subject area.

Shawn Kadaoka representing the Wong family who are neighbors to the subject parcel asked the Board when considering possible tenants for this parcel that their operations do not conflict with their neighbors.

The Board amended the Recommendation Section by adding

“D. The cancellation shall include a provision holding the Applicant responsible for any future liability stemming from its past activities and the activities of its former sublessee UNISYS. Such provision shall be subject to review and approval of the Department of the Attorney General.”

Unanimously approved as amended (Johns/Yamamura).

Item D-16: Sale of Reclaimed Land to Gary C. Barnes, Jeri V. Barnes, Kenneth I. McCarthy and Martha R. McCarthy; Kaneohe, Koolaupoko, Oahu; TMK: (1) 4-5-07:24 seaward.

Mr. Yada communicated the applicants are not pier owners participating in the Kaneohe Piers Amnesty Program. He noted a survey map identified an encroachment of a seawall and filled land. To address the situation, the applicant is requesting to purchase the unencumbered filled land. Mr. Yada recommended the Board authorize the sale of the subject-reclaimed land to Gary C. Barnes, Jeri V. Barnes, Kenneth I. McCarthy and Martha R. McCarthy covering the subject area.

Gary Barnes was present.

Unanimously approved as submitted (Martyn/Schuman).

Item D-14: Re-Submittal Clarification of Use or Forfeiture of General Lease No. S-3854, Patrick and Nancy Maloney, Lessees, Waimanalo, Koolaupoko, Oahu; TMK: (1) 4-1-26:18.

Mr. Yada reminded the Board at its March 11, 2005 meeting this item was deferred, as there was a question as to whether or not aquaculture is considered a permitted use under

the subject lease. Upon consultation with the Attorney General's Office it was determined that aquaculture was not a permitted use. Mr. Yada recommended the Board authorize the cancellation of General Lease No. S-3854.

Mr. Yada pointed out if the lease went back out for public auction under the terms of the new lease the permittee would be able to conduct aquaculture activities on the parcel.

Mr. Lau indicated when Act 136 was passed it did not allow for a retrospective application of the definition. Act 136 did not affect existing leases, only future leases issued by the Department.

Patrick Maloney the lessee came forward to testify before the Board. Mr. Maloney let the Board know that he is not requesting a change in his lease but instead would like the Board to make a more liberal interpretation of the existing lease language so he can take advantage of changes in the field of agriculture in the past forty years. Mr. Maloney noted a decision made by the Board on April 23, 2004 regarding Lease S-3740 in which the Board allowed the lessee to grow turf on the property even though the lease stated cultivation of grass. He believes the Board made an liberal interpretation of that agriculture lease. Mr. Maloney told the Board if aquaculture existed in 1964 he believes it would be included in the definition of diversified agriculture. Due to the fact that aquaculture did not exist in 1964 should not exclude aquaculture as a permitted use on the land. Mr. Maloney proposed three options: 1) Accept ornamental fish as a trop crop; 2) Allow him to switch back to an approved crop using the affluent from ornamental fish to provide organic fertilizer and 3) Allow him to switch back to an approved crop. He noted he would prefer recommendation one but would be okay with recommendation two.

The Board asked Mr. Maloney if he was able to consult with the attorney general's office regarding his possible solutions to which he replied there wasn't enough time at the point he received notice of the item appearing before the Board.

Motion to defer.

Unanimously approved to defer (Johns/Schuman).

Item J-1: Re-confirmation that the Board Submittal dated May 24, 2004 authorizes the preparation and execution of all documents necessary for the implementation of the Kikiaola Harbor Improvement Project TMK: (4) 1-2-06-17, Kauai, Hawaii.

Richard Rice, Administrator of the Division of Boating and Ocean Recreation (DOBOR) indicated at the May 24, 2004 meeting the Board accepted the draft Master Plan for the implementation of the Kikiaola Harbor Improvement Project. The project is a partnership between the U.S. Army Corps of Engineers (COE) and the State of Hawaii, Division of Boating and Ocean Recreation. While staff was preparing and processing the required paperwork it was suggested that staff ask for a reconfirmation of the actions as the previous approval was obtained over a year ago. Mr. Rice recommended the Board

reconfirm that the approved Board Submittal dated May 24, 2004, authorizes the Chairperson to sign all documents and agreements necessary to implement the proposed improvements.

Member Agor question Mr. Rice if there were any changes made to the master plan as it existed in 2004. Mr. Rice acknowledged within the last year, the COE has concluded there has been significant erosion and damage to the west breakwater therefore the COE has determined the deterioration of the wall needs to be corrected. Mr. Rice confirmed an estimated amount to repair the wall has been set aside from the money appropriated for the project. Of the monies appropriated a little over two million would be used for the State's cost in the rock wall replacement and improvements and the dredging of the area and a little under two million would be set aside for the cost of breakwater improvements and sand bypassing. Mr. Rice confirmed that whenever there are major changes to the project, they would meet with the Kauai boaters to keep them abreast of the situation. At the time the Master Plan was prepared staff believed they would be able to afford approximately 40 boating slips at the harbor, but at this time the Department can only afford seven slips. Mr. Rice indicated after the bid packets are open in October staff would be able to return to the Board and give a better picture as to what items in the master plan the Department would be able to afford.

Bill Mossman, representing Hawaii Boaters Political Action Association came forward to provide testimony. Mr. Mossman provided the Board with a picture of the Draft Master Plan for the harbor, which indicated the existence of thirty (30) boat slips. Also according to the June 2005 COE Limited Reevaluation Report the floating dock and the portions of the dredged area had been eliminated. Mr. Mossman further disclosed the funds for the dredging has already been approved and released by the governor. Mr. Mossman communicated that DOBOR has reduced the area to be dredged from 4.5 acres to 1.2 acres and this reduction could pose a problem in the future (7 years) when the State would be eligible for additional funding as only 1.2 acres would be eligible. In reference to the seven boating slips referred to by Mr. Rice, Mr. Mossman pointed out these slips are being made available to commercial boaters only. As far as the Draft Master Plan for the harbor, in 2002 the department paid the COE \$400,000 to act as an agent and execute the plan which has yet to reach the hands of the public. Mr. Mossman asked the Board to direct DOBOR to hold an official public informational meeting on Kauai before any Federal contracts for this project are signed so the community will know what's going on at the harbor. Within the last year the problem of erosion has surfaced but he feels the core of the project should not be given up due to this problem. In closing, Mr. Mossman asked the Board to instruct the Department to hold a public meeting in which they will discuss the details of the June 2005 COE Limited Reevaluation Report and let the people of Kauai know what they will be getting for the money spent.

The Board instructed staff to meet with the community after the bids are received to discuss what can be done at Kikialoa Small Boat Harbor with the funds available then return to the Board with those plans.

Unanimously approved as submitted (Agor/Johns).

Item M-1: Consent to Place Domestic Commercial Fishing Village and Adjacent Areas under Condominium Property Regime and Amendment of Legal Descriptions of Lease Lots of Harbor Lease Nos. H-90-4 Issued to the Hawaii Stevedores, Inc., H-03-18 Issued to Pacific Ocean Producers, LLC, and H-03-17 Issued to United Fishing Agency, Ltd.

Item M-2: Issuance of Direct Lease to County of Kauai, Port Allen Airport.

Item M-3: Amendment to Prior Land Board Action of September 10, 2004, Under Agenda Item M-1, Regarding Issuance of a Lease by Direct Negotiation to Fresh Island Fish Company, Inc., Adjacent to Pier 38, Honolulu Harbor, Oahu.

Item M-4: Amendment Prior Land Board Action of February 11, 2005, Agenda Item M-1, Conveyance of Portion of Kamehameha Highway, FAP No. SN-FAP-9-D4, to the City and County of Honolulu, TMK: (1) 1-2-26: portion of Kamehameha Highway.

Unanimously approved as submitted (Johns/Yamamura).

Item K-3: Conservation District Use Application (CDUA) KA-3003 for Kikiaola Small Boat Harbor Project (Navigation Improvements and Beach Nourishment).

The Board amended the Recommendation Section

1. Recommendation 3)

“That the applicant shall initially and in concert with Phase II bypass 60,000 cubic yards of sand from East Kikiaola Beach to West Kikiaola Beach. ~~[Subsequent nourishment efforts shall be borne by the DOBOR or the USACOE; DOBOR shall either bypass 10,000 cubic yards of sand/year for three years, or provide 30,000 cubic yards of sand at once. On the third year,]~~ DOBOR, in concert with the Coastal Lands Program, shall investigate beach stability at both East Kikiaola and West Kikiaola Beaches to determine future sand bypassing needs. All future sand bypassing shall be coordinated and approved with Coastal Lands Program staff and approved by the Chairperson of the Board of Land and Natural Resources;”

2. Recommendation 24)

“The applicant shall conduct surveys for sea turtles prior to the start of construction. . . A turtle survey protocol shall be reviewed and approved by the ~~[Land Division, Planning Branch]~~ Office of Conservation and Coastal Lands, prior to approval of construction plans for the project;”

3. Renumber Recommendation Section

Unanimously approved as amended (Agor/Johns).

**Item K-1: Amendment to Condition #4 of Enforcement File No. HA-03-49
Regarding an Unauthorized Wall Extension.**

Unanimously approved as submitted (DeMello/Johns).

**Item D-2: Forfeiture of General Lease No. 3157, Robert C. McKeen, Jr. and
Margaret McKeen, Lessee, Waiakea, South Hilo, Hawaii, TMK: (3) 2-
1-07:23.**

Mr. Yada informed the Board that yesterday they received a letter from the wife of Robert McKean, Jr. asking for additional time (October) to come up with the rental payment.

Due to legal questions regarding this lease the Board deferred this item. The Board requested staff to verify the status of the estates of both Robert C. McKeen Jr. and Margaret McKeen.

Written testimony was received from Natalie McKean.

Motion to defer

Unanimously approved to defer (DeMello/Martyn).

Item C-1: Default of Timber Land License No. H-101 held by Tradewinds LLC.

Paul Conry, Administrator of the Division of Forestry and Wildlife (DOFAW) went over the division's history with Tradewinds including their various appearances before the Board and the resulting actions. At present Tradewinds is asking the Board for 1) allow the letter of intent between Rockland Capital Energy Investments, LLC and Tradewinds to satisfy the Board's requirement to produce a binding subscription agreement; 2) an extension of the current Phase II construction funding deadline from October 31, 2005 to October 31, 2006; 3) to change the Domicile for Tradewinds from a Washington LLC to a Delaware LLC; 4) that the Department find the conditions of the Letter of Intent regarding Phase II funding favorable and 5) an extension on the fixed pricing under Section 4.1 of the Timber Land License. Mr. Conry also informed the Board he anticipates future requests by Tradewinds for future amendments to their Timber Land License, which will include a reduction in the scope of production to veneer peeling and export operation. Given the history of this timber land license, Mr. Conry feels it is in the best interest of the State to seek a new fair-market alternative for disposition of the timber resources in Waiakea Timber Management Area. Mr. Conry recommended the Board find that the Tradewinds business model does not meet the goals and intent of the Timber Land License and Waiakea Timber Management Plan, deny Tradewinds request to approve the assignment of interest in Tradewinds to the proposed Phase I investors, Deny

the request to extend the Phase II funding deadline and the request to cancel all other performance deadlines, Deny the request to approve the assignment of Timber Land License to Tradewinds, LLC a Delaware limited liability company, find Tradewinds in default of their Timber Land License by failing to secure Phase I financing by March 31, 2005, find Tradewinds in default of their Timber Land License for failure to provide signed legally binding subscription agreements for start-up funding of \$1,000,000 by July 1, 2005 and instruct the Division to issue a notice of default in which Tradewinds is informed that it must cure or remedy such defaults within 60 days.

Don Bryan, representing Tradewinds acknowledged it has taken six years to get to this point but confirmed his organizations is ready to move ahead with this project. Mr. Bryan went over his handout, which detailed the Current Project Description, Future Expansion Plans, Recent Developments, Significant Achievements, Value Proposition, Economic Impact, Timeline Moving Forward, Alternatives and Tradewinds Recommendations.

Scott Harlan, Managing Director and Chief Operating Officer at Rockland Capital Energy Investments, LLC (Rockland) testified in opposition to staff's recommendation. As background information on his company, Mr. Harlan pointed out Rockland is a small private equity firm that was formed in early 2003. Rockland's principle purpose and objective is to make investments in energy businesses. Mr. Harlan noted they have not invested in the timber or forestry business but he has some experience from seven years ago with wood fire power plants in the state of Maine. In 2004, Rockland made three investments, which were all in power plants. The investments in those companies ranged from 10 million to 80 million dollars. Mr. Harlan let it be known that they are looking to Mr. Bryan to continue managing the project. In terms of Rockland's funding for this subject project, Mr. Harlan confirmed their commitment is real and the only condition to their funding is approval by the Board. Upon Board approval, Rockland will make funding available within five business days. As far as Phase II funding, Rockland has negotiated an option to fund seventy percent of Phase II. Mr. Harlan feels the permitting deadline is the biggest difficulty at the moment. He believes at the point they reach the deadline (November 30) to acquire all of the necessary permits (17) they will have not have reached that goal. Mr. Harlan asked the Board to clarify exactly what will be needed at the November 30 deadline.

Carl Masaki a member of the task force that begun the subject forest initiative testified. Mr. Masaki told the Board he believes Tradewinds deserves another chance. Addressing the comment that the State has lost out on revenue as Tradewinds has not started production, Mr. Masaki feels the trees Tradewinds would have harvested have actually gotten bigger thereby increasing the compensation the State would receive.

Lisa Barton spoke on behalf of her community and their support for Tradewinds. She spoke of the much needed jobs in the community Tradewinds would provide. Ms. Barton respectfully asked the Board to allow Tradewinds to keep their timber land license.

Mike Robinson a professional forester with extensive background in Hawaii testified before the Board. Mr. Robinson believes the forest industry is currently on track to replace the sugar industry. He spoke of the efforts put forth by Mr. Bryan with the expectation of developing a timber industry in Hawaii. Mr. Robinson pointed out the timber industry can not be developed overnight (sugar industry took 25 years). He told the Board patience and perseverance is the key in accomplishing a timber industry in Waiakea.

Peter Simmons, representing Kamehameha Schools testified in support of Tradewinds holding on to their timber land license. Mr. Simmons emphasized it will take everyone working together for the timber industry to thrive. He also spoke of the jobs that will be generated from this industry. Mr. Simmons suggested that the Department hold a meeting bringing together all the principle players in the timber industry to sit down and redefine the rebirth of the timber industry.

The Board brought up the notion of assessing a penalty should Tradewinds miss any deadlines or request additional extensions. Mr. Bryan informed the Board the idea of assessing a penalty upon Tradewinds could pose a problem with his investors, as the term of his contract would change. Mr. Bryan believes if there was a penalty system implemented that amounted to a lot of money he does not believe he will be able to get investors to invest into Tradewinds.

Mike Buck, a retired State Forester gave the Board some background into Tradewinds and the Department's history with this lease. He let it be known at the beginning of the meeting he favored staff's recommendation but now he is unsure. As a supporter of the forest industry Mr. Buck conveyed that Tradewinds has had a no cost deal with the Department for the past six years and if the Department decides to continue this relationship with Tradewinds it should come at a cost. Addressing the notion that there are others interested in the acquiring a timber license, Mr. Buck suggested opening up lands in Hamakua for their use.

Kent Unterman, of Pictures Plus testified before the Board. He conveyed to the Board his business of picture framing is built primarily on a foundation of koa veneer. He scales 20,000 board feet of koa veneer a year. From a business perspective, Mr. Unterman voiced his support for staff's recommendation as Tradewinds has been unable to fulfill their end of the deal.

Jim Quinn indicated a possible reason Tradewinds might be having difficulty in raising capital is that investors don't want to invest in a place so far away on a resources that is limited and on this type of wood. Mr. Quinn believes the market for eucalyptus wood is strong but it is narrow. He feels we need to focus on products that are high value in order for the State to see some economic value.

Mr. Unterman added to his testimony by saying if Tradewinds has funding available to allow staff to put together a deadline for Tradewinds and to also sit down in a partnership arrangement to see if everyone can agree on new terms of the contract.

Written testimony was received from Fred C. Holschuh, Lorraine Inouye, David M. Robichaux, Stephen E.S. Smith, North Hilo Community Council, Agro Resources, Inc., Thomas B. Crabb, Hawaiian Electric Light Company, Inc.,

The Board noted their concerns on whether we had the right project or the right people.

The Board instructed staff to meet with representatives of Tradewinds and address the issues discussed today (i.e. compensation for the option period, reopening, penalties for missed deadlines) and to return to the Board at the September 23, 2005 meeting with their recommendations.

Motion to deny

Unanimously approved to deny (Johns/DeMello).

Item D-3: Request to Approve Subordination Agreement, General Lease No. S-4303, S-4379 and S-5656, David S. De Luz Sr. and Big Island Toyota, Inc., Lessee, Waiakea, South Hilo, Hawaii, TMK: (3) 2-2-58:15 & 17.

Member Schuman rescused herself

Unanimously approved by the remaining Board members (Johns/DeMello).

Item D-1: Rescind Prior Board Action of October 10, 1980 (Item F-12), Direct Grant of Easement to U.S. Department of Interior, Hanalei, Kauai, TMK: (4) 5-4-02:adjacent 38.

Item D-5: After-the-Fact, Consent to Assign General Lease No. S-5264, Lee Enterprise, Inc., Assignor, to Emmis Television Broadcasting, L.P., Assignee, Humuula, North Hilo, Hawaii, TMK: (3) 3-8-01:11.

Item D-7: Set Aside to Department of Land and Natural Resources, Division of State Parks; Issuance of Management and Construction Right-of-Entry for Park and Related Purposes, at Keopuka, Kaawaloa, Kealakekua, and Kiloa, South Kona, Hawaii, TMK: (3) 8-1-07:50; 8-1-10:01, 8-1-11:1, 3-10, 12-14 & 16; 8-2-02:42 & 44, and 8-2-04:1, 2, 8, 10 & 15.

Item D-8: Grant of Perpetual, Non-Exclusive Easement to John and Ritamarie Slover for Access and Utility Purposes, Makawao, Maui, TMK: (2) 2-9-03:por. 16, 17, 20 and 39.

Item D-9: Rescind Prior Board Action of May 9, 1997 (Item D-2), Issuance of a Revocable Permit to DIA Pacific Development Corporation for Parking and Security Purposes, Honokowai, Lahaina, Maui, TMK: (2) 4-4-01:por. 106.

- Item D-10:** Cancellation of Governor’s Executive Order No. 4080 and Reset Aside to the Department of Education for Repair and Maintenance Baseyard Purposes, Kapahulu, Oahu, TMK: (1) 3-1-42:39.
- Item D-11:** Grant of Term, Non-Exclusive Easement to Robert Wakefield Ward and Robin Elaine Ward for Seawall and Filled Land Purposes, Kuliouou, Honolulu, Oahu, TMK: (1) 3-8-02:04 seaward.
- Item D-15:** Grant of Term, Non-Exclusive Easement to Gwenette Higa for Landscaping and Filled Land Purposes, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-07:23 seaward.
- Item D-17:** Rescind Prior Board Action of June 9, 1988, Item F-6; Deletion of Encumbrances, Paumalu, Koolauloa, Oahu, TMK: (1) 5-9-06:23.
- Item D-18:** Results of the Public Auction Sale of a State of Hawaii Lease on the Island of Oahu, Held on June 28, 2005, Kapalama-Kai, Oahu, TMK: (1) 1-5-42:02.

Unanimously approved as submitted (Johns/DeMello).

- Item E-3:** Request Adoption of the Proposed Amendment and Compilation of Title 13, Chapter 223, Hawaii Administrative Rule (Chapter 13-223 HAR), “Urban Historic Preservation and Restoration Projects.”

Written testimony was received from Frank O. Hay.

The Board amended the Recommendation Section

“That the Board of Land and Natural Resources: Approve the proposed Amendment and Compilation of Chapter 13-223, HAR, entitled “Historic Preservation and Restoration [Project] on Public Lands.”

Unanimously approved as amended (Johns/Yamamura).

- Item E-1:** Request from the Good News Jail and Prison Ministry to use the Large Pavilion at the Wailoa River State Recreation Area in Hilo, Hawaii, for a Fundraiser.
- Item E-2:** Request from Hospice of Hilo to use the Large Pavilion at the Wailoa River State Recreation Area in Hilo, Hawaii for a Fundraiser Entitled, “Celebration of Life.

Unanimously approved as submitted (Johns/Agor).

- Item L-1:** Certification of Election and Appointment of Kona Soil and Water Conservation District Directors.

- Item L-2: Approval for Award of Construction Contract – Job No. F00CF46A, Individual Wastewater System at Waimea Canyon State Park, Waimea, Kauai, Hawaii.**
- Item L-3: Approval for Award of Construction Contract – Job No. D00BH60A Puu Waa Waa Reservoir Re-Lining North Kona, Hawaii.**
- Item L-4: Appointment of Mauna Kea Soil and Water Conservation District Director.**
- Item L-5: Approval for Award of Construction Contract – Job No. J00CF48A Keaiwa Heiau State Recreation Area ADA Barrier Removal, Aiea, Oahu, Hawaii.**
- Item L-6: Approval for Award of Construction Contract – Job No. F00CF33A Individual Wastewater System at Wailuku River State Park (Boiling Pots), Hilo, Hawaii and Job No. F00CF34A Individual Wastewater System at Lava Tree State Monument Puna, Hawaii.**

Unanimously approved as submitted (Johns/Agor).

There being no further business, Chairperson Young adjourned the meeting at 1:50 p.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

Terry Crowell

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources